

ENTERED

February 14, 2020

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISIONState of Texas, *et al.*,*Plaintiffs,*

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Civil Action No. 1:18-CV-00068

The United States of America, *et al.*,
*Defendants,*Karla Perez, *et al.*,
Defendant-Intervenors,

and

State of New Jersey,
*Defendant-Intervenor.***ORDER**

This Court has stayed this case pending the resolution of the cases currently pending before the Supreme Court of the United States (Doc. No. 447). The Defendant-Intervenors had previously filed a Motion to Strike Plaintiffs' Experts (Doc. No. 390), the Plaintiffs responded (Doc. No. 411), and the Defendant-Intervenors replied (Doc. No. 415).

The motion is, in effect, a *Daubert* motion claiming the Plaintiffs' expert reports are not reliable because they are allegedly based on flawed assumptions and insufficient data. *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993). Plaintiffs obviously disagree. As noted above, this case is stayed. Once the stay is lifted the Court will first move to consider the pending motion for summary judgment. Thus, the Court need not decide at this point whether the opinions of the experts in question are sufficiently reliable to aid the finder of fact in performing its function at trial. FED. R. EVID. 702, 703. Therefore, it denies this motion without prejudice to its being reasserted once the proceeding reaches that stage.

It will, however, treat the points raised in this motion as objections to the expert

testimony/reports in considering the pending summary judgment motion and will rule on them as objections to the extent it needs to resolve those issues.

Therefore, the Motion to Strike (Doc. No. 310) is denied without prejudice to its being reasserted at an appropriate pre-trial juncture. Once the stay is lifted, the points raised by that motion and reply and opposed by the response will be considered as properly lodged objections as far as such expertise (or lack thereof) is relevant to the summary judgment motion.

Signed this 14th day of February, 2020.



Andrew S. Hanen
United States District Judge